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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 28.03.2022

CORAM:

THE HONOURABLE MR. JUSTICE **G.K.ILANTHIRAIYAN**

Crl.O.P.(MD) No.5641 of 2022

and

Crl.M.P(MD) No.4017 of 2022

Ramalingam

...Petitioner/Accused NO.3

Vs.

1. The Inspector of Police,
District Crime Branch,
Thanjavur P.S.,
Thanjavur District.
(Crime No.4/2022)

... 1st Respondent/Complainant

2. Kalyanaraman

...2nd Respondent/Defacto Complainant

PRAYER: Criminal Original Petition filed under Section 482 Cr.P.C. praying to call for the records pertaining to the Crime No.4/2022 dated 05.03.2022 on the file of 1st respondent police, Thanjavur District and quash the same in respect of this petitioner.

For Petitioner : Mr.R.Anandharaj

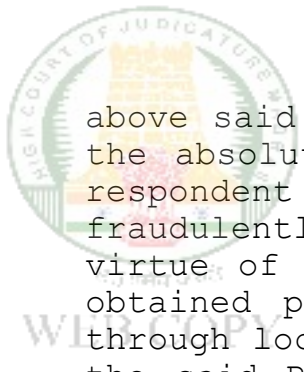
For Respondents : Mr.R.M.Anbunithi
No.1 Additional Public Prosecutor

For Respondents : Mr.B.Saravanan
No.2

ORDER

This Criminal Original Petition has been filed to quash the proceedings in Crime No. 4 of 2022 on the file of the first respondent police.

2. The case of the prosecution is that the 2nd respondent herein has lodged the complaint, by alleging that he owns the property at Thanjavur Municipal 4th ward in Town Survey Nos.3042, 3043, 3044, 3045, 3047, 3048, 3049 and in Old survey No.1 comprising of 12 house plots. He further states the above mentioned property was inherited to his aunt namely Vijayalakshmi through the partition effected in the year 1955 among her family members. Later, in the year of 1966 the said Vijayalakshmi along with her sisters namely Janaki and Leelavathi developed the house plots in the vacant land. Then the above stated the some of the house plots were sold and the remaining unsold plots given to the defacto complainant by the said Vijayalakshmi by way of a registered Will under document No.162/2014 dated 12.11.2014. The Said Vijayalakshmi died on 28.01.2017 and the



above said Will came into effect and the defacto complainant became the absolute owner of the above stated properties. Further the 2nd respondent herein came to know about the properties that were fraudulently transferred in the name of one Ramalingam of Chennai by virtue of the document No.1776/1965. The 2nd respondent herein has obtained permissions to convert the land into house site plots through local planning authority in the year 2018 itself. That apart the said Ramalingam in order to encumber the properties created a forged documents in the name of Thiripurasundariam and Palavesamuthu and also forged power of attorney prepared in the name of Ramalingam and thereby it was sold to many persons through the power agents, thus the defacto complainant came to understand that his property has been grabbed by way of registering forged documents by the above said Ramalingam and his power agents namely Thiraviapandian and Sundar and they sold out and thereby encumbered the defacto complainant's property. The purchasers of the above said property are entered into criminal conspiracy in order to grab the property of the defacto complainant. As per the various documents all the purchasers are hereby arrayed as accused persons. The above property is worth about Rs.2.5 Crores. Moreover the defacto complainant has given a petition to the Registration department for cancellation of the above said fraudulent registration and for which he filed a writ petition before this Hon'ble High Court and in which an order has been passed to the District Registrar, Thanjavur to conduct an enquiry in this regard and action to be taken is pending. Hence the defacto complainant has given a complaint to the Deputy Inspector General, Thanjavur Zone, Thanjavur and thereafter the respondent police have registered a case in Crime No.4/2022 against this petitioner and others for the alleged offences punishable under sections 465, 468, 471, 420 and 120(b) of IPC.

3. . The learned Counsel appearing for the petitioner would submit that the petitioner is innocent and he has not committed any offence as alleged by the prosecution. He would further submit that originally First Information Report has been registered against one Ramalingam who is a resident of Chennai and the petitioner is not the person. He would further submit that the entire allegations is against the other accused, unfortunately the first respondent has added petitioner herein as a accused. He further pointed out that the petitioner has filed a Writ Petition in WP(MD) No.2526 of 2019, wherein the District Registrar has conducted detailed enquiry and found that all the documents which were under dispute are genuine one and executed by the original owner of the property, however without considering the same, the first respondent has registered a case against the petitioner.

4. The learned Additional Public Prosecutor would submit that though the third respondent is one Ramalingam the petitioner herein is another Ramalingam from Chennai. He would further submit that the investigation is under progress.



5. Heard both sides and perused the materials available on record.

6. It is seen from the First Information Report that there are specific allegation as against the petitioner, which has to be investigated. Further the FIR is not an encyclopedia and it need not contain all facts. Further, it cannot be quashed in the threshold. This Court finds that the FIR discloses prima facie commission of cognizable offence and as such this Court cannot interfere with the investigation. The investigating machinery has to step in to investigate, grab and unearth the crime in accordance with the procedures prescribed in the Code.

7. It is also relevant to rely upon the judgment of the Hon'ble Supreme Court of India passed in **Crl.A.No.255 of 2019** dated **12.02.2019 - Sau. Kamal Shivaji Pokarnekar vs. the State of Maharashtra & ors.**, wherein it is held as follows:-

"4. The only point that arises for our consideration in this case is whether the High Court was right in setting aside the order by which process was issued. It is settled law that the Magistrate, at the stage of taking cognizance and summoning, is required to apply his judicial mind only with a view to taking cognizance of the offence, or in other words, to find out whether a prima facie case has been made out for summoning the accused persons. The learned Magistrate is not required to evaluate the merits of the material or evidence in support of the complaint, because the Magistrate must not undertake the exercise to find out whether the materials would lead to a conviction or not.

5. Quashing the criminal proceedings is called for only in a case where the complaint does not disclose any offence, or is frivolous, vexatious, or oppressive. If the allegations set out in the complaint do not constitute the offence of which cognizance has been taken by the Magistrate, it is open to the High Court to quash the same. It is not necessary that a meticulous analysis of the case should be done before the Trial to find out whether the case would end in conviction or acquittal. If it appears on a reading of the complaint and consideration of the allegations therein, in the light of the statement made on oath that the ingredients of the offence are disclosed,



there would be no justification for the High Court to interfere.

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9. Having heard the learned Senior Counsel and examined the material on record, we are of the considered view that the High Court ought not to have set aside the order passed by the Trial Court issuing summons to the Respondents. A perusal of the complaint discloses that prima facie, offences that are alleged against the Respondents. The correctness or otherwise of the said allegations has to be decided only in the Trial. At the initial stage of issuance of process it is not open to the Courts to stifle the proceedings by entering into the merits of the contentions made on behalf of the accused. Criminal complaints cannot be quashed only on the ground that the allegations made therein appear to be of a civil nature. If the ingredients of the offence alleged against the accused are prima facie made out in the complaint, the criminal proceeding shall not be interdicted."

8. In view of the above discussion, this Court is not inclined to quash the First Information Report. Hence this Criminal Original Petition stands dismissed. However, the respondent police is directed to complete the investigation and file final report before the concerned Magistrate, within a period of twelve weeks from the date of receipt of a copy of this Order. Consequently, connected miscellaneous petition is closed. However the petitioner at liberty to challenge the final report in the manner known to law.

Sd/-

Assistant Registrar (AS)

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/ /2022

Sub Assistant Registrar(CS)

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To

1. The Inspector of Police,
District Crime Branch,
Thanjavur P.S.,
Thanjavur District.



2. The Additional Public Prosecutor
Madurai Bench of Madras High Court, Madurai.

+1 CC to M/s.R.ANANDHARAJ, Advocate (SR-15171[F] dated 29/03/2022)
Crl.O.P.(MD) No.5641 of 2022
and
Crl.M.P(MD) No.4017 of 2022
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